

**SIXTIETH DAY**  
(Tuesday, May 19, 1987)

The Senate met at 11:00 a.m., pursuant to adjournment and was called to order by Senator Brooks.

The roll was called and the following Senators were present: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Johnson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sims, Tejada, Uribe, Washington, Whitmire, Zaffirini.

Absent-excused: Truan.

A quorum was announced present.

Sister Paul O'Reilly, Vice Principal, Nolan High School, Fort Worth, offered the invocation as follows:

Father of all nations, we give You thanks for all the blessings which You have poured out on this great State and its peoples. Help us to live in unity and harmony, by becoming perfectly dutiful servants of all, generous in our giving, and strong and moral in our character. Bless this gathering here and be present as the decisions of government are made. Direct the hearts and minds of these Senators as they serve the members of this State. Bless us, Father, this day, in the name of Jesus Your Son and our Brother. Amen.

On motion of Senator Harris and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**LEAVE OF ABSENCE**

Senator Truan was granted leave of absence for today on account of illness on motion of Senator Zaffirini.

**REPORTS OF STANDING COMMITTEES**

Senator Farabee submitted the following report for the Committee on State Affairs:

C.S.S.B. 1497  
C.S.H.B. 1370  
C.S.H.B. 1637  
H.B. 2252  
H.J.R. 65  
H.B. 1364  
H.B. 2144  
H.B. 556  
H.B. 1984  
H.B. 979  
C.S.H.B. 1190  
S.B. 1215  
H.B. 557  
H.B. 1823  
H.B. 58  
C.S.S.B. 1158

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

S.B. 681  
H.B. 1347  
H.B. 2564  
H.B. 2563  
H.B. 2555  
C.S.H.B. 2517  
H.B. 2409  
H.B. 1783  
H.B. 1746 (Amended)  
H.B. 1613  
H.B. 1328  
H.B. 792  
S.B. 1512  
S.B. 1481  
C.S.H.B. 1896

Senator Harris submitted the following report for the Committee on Economic Development:

C.S.S.B. 1408

Senator Parker submitted the following report for the Committee on Education:

H.C.R. 106  
H.B. 2183  
H.B. 2182 (Amended)  
C.S.H.B. 2181

#### MESSAGE FROM THE HOUSE

House Chamber  
May 19, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has concurred in Senate amendments to H.B. 423 by a non-record vote.

The House has concurred in Senate amendments to H.B. 855 by a record vote of 130 ayes, 7 noes, 2 present-not voting.

The House has concurred in Senate amendments to H.B. 514 by a record vote of 135 ayes, 0 noes, 1 present-not voting.

The House has concurred in Senate amendments to H.B. 1002 by a non-record vote.

The House has concurred in Senate amendments to H.B. 646 by a non-record vote.

The House has concurred in Senate amendments to H.B. 2220 by a non-record vote.

The House has concurred in Senate amendments to H.B. 1775 by a non-record vote.

**S.B. 1422**, Relating to suspension of sentences and deferral of final disposition in justice courts.

**S.B. 33**, Relating to the continuation, board membership, powers and duties, operation, administration, and financing of the Texas Youth Commission; support of children committed and effect of commitment; the rehabilitation of children adjudicated to have engaged in delinquent conduct; and the reduction of juvenile delinquency; authorizing appropriations. (Substituted and amended)

**H.B. 2438**, Relating to the allocation and use of certain local transportation sales and use tax revenues.

**H.B. 614**, Relating to the appointment of a parent as managing conservator.

**H.B. 1488**, Relating to the investment of public funds.

**H.B. 647**, Relating to the punishment for the operation of certain overweight vehicles.

**H.B. 1303**, Relating to the filing requirements for issuance of certain life, health, and accident insurance policies, contracts, certificates, and forms, and certain annuity contracts and forms.

**H.B. 1955**, Relating to the authority of a commissioners court in certain counties to call an election regarding the dissolution of the county civil service system.

**H.B. 2143**, Relating to the rights, duties, and obligations of surface owners who act as the leasing agents for certain State minerals and to the issuance of State prospecting permits for certain minerals.

**H.B. 2012**, Relating to the operation of the catastrophe property insurance pool.

**H.B. 612**, Relating to the filing periods for and the withdrawal or ineligibility of candidates in elections other than the general election for State and county officers or a primary election.

**H.B. 1957**, Relating to firefighters' and police officers' civil service in cities over 10,000 population.

The House has refused to concur in Senate amendments to **H.B. 81** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House conferees: Kubiak, Chairman; Moreno, R. Cuellar, Parker and Denton.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### SENATE RESOLUTION 576

Senator Henderson offered the following resolution:

WHEREAS, The State of Texas can take great pride in Dr. Paul Ching-Wu Chu of the University of Houston; and

WHEREAS, Dr. Chu, a member of the physics faculty at the University of Houston since 1979, has achieved a revolutionary breakthrough in superconductivity research that will have a major impact on our society and the way we live; and

WHEREAS, The ultra-cold temperatures that were formerly required for superconductivity could only be reached by using liquid helium, a rare and

expensive material; Dr. Chu's momentous discovery of an alloy that becomes superconductive at much higher temperatures means that liquid nitrogen, which is common and inexpensive, can be used for cooling; and

WHEREAS, The implications of this revolutionary finding are far-reaching in nature; trains that can travel at 300 miles per hour, the transmission of electricity with no loss of power, faster and more compact computers, and extremely powerful magnets may all be possible using this new technology; and

WHEREAS, This esteemed physicist has been nominated for the prestigious Japan Prize as a result of his pioneering research and has been mentioned as a possible candidate for the Nobel Prize in physics; now, therefore, be it

RESOLVED, That the Senate of the 70th Legislature of the State of Texas hereby honor Dr. Paul Ching-Wu Chu for his dramatic advance in the field of superconductivity; and, be it further

RESOLVED, That an official copy of this resolution be prepared for Dr. Chu as an expression of the highest regard from the Texas Senate.

The resolution was read.

On motion of Senator Harris and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Henderson and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

#### GUEST PRESENTED

Senator Henderson introduced Dr. Chu to the Members of the Senate.

The Senate expressed appreciation to Dr. Chu for his achievements and welcomed him as a guest for the day.

#### GUEST PRESENTED

Senator Armbrister was recognized and introduced Dr. Barbara Conner of Flatonia, the Capitol Physician for the Day.

Dr. Conner was welcomed and received the appreciation of the Senate for again serving as Capitol Physician for the Day.

#### SENATE RESOLUTION 573

S.R. 573, In memory of Judge Leon Douglas.

#### GUESTS PRESENTED

Senator Farabee escorted Judge Douglas' family to the President's Rostrum: his wife, Mrs. Marybelle Douglas; daughter, Mrs. Tom (Nancy) Moore; son and daughter-in-law, David and Scarlett Douglas; and grandchildren, Amy Moore, Claire Moore, Daniel Moore, Marian Moore, Lesley Douglas, Allison Douglas and Michael Douglas.

The Presiding Officer, Senator Brooks, presented an enrolled copy of S.R. 573 to Mrs. Douglas.

#### MESSAGE FROM THE HOUSE

House Chamber  
May 19, 1987

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 372, Relating to purchase of supplies, materials, services, or equipment from State funds appropriated for research projects.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

(President in Chair)

#### SENATE RESOLUTION 570

Senator Blake offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to honor one of its most beloved employees, Joe Helen Belle, who is retiring after almost 18 years of outstanding state service; and

WHEREAS, Employed in the Governor's Office in 1969, she began working in the Lieutenant Governor's Office on September 5, 1973, as administrative secretary; and

WHEREAS, Cheerful and pleasant, she is respected and admired by her fellow workers for her hard work and devotion to duty; and

WHEREAS, Never ruffled, she is well known for being calm in the midst of chaotic and hectic circumstances; and

WHEREAS, With the tact of a born diplomat, Mrs. Belle has contributed enormously to the smooth efficiency of the Lieutenant Governor's Office; and

WHEREAS, She leaves behind a legacy of the pursuit of excellence in all her endeavors and she will be sorely missed; and

WHEREAS, Mrs. Belle is a quiet woman but her strength of character and purpose has been readily apparent to all who know her; and

WHEREAS, A devoted wife, she has been strengthened throughout her career by the love and support of her husband, John O. Belle; and

WHEREAS, The State of Texas has benefitted enormously from the wisdom and expertise of this outstanding public servant who has conscientiously discharged her duties in an exemplary manner; and

WHEREAS, It is appropriate that the Texas Senate honor Joe Helen Belle on the momentous occasion of her retirement on May 31, 1987; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby commend and applaud Joe Helen Belle for her dedication and devotion to her work; and express sincere appreciation for her many years of loyal service to the people of Texas; and, be it further

RESOLVED, That a copy of this resolution be prepared for her as an expression of highest esteem, respect, and friendship from the Texas Senate.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Blake, the resolution was adopted viva voce vote.

#### GUEST PRESENTED

The President presented an enrolled copy of S.R. 570 to Mrs. Belle, expressing his appreciation for her years of service in the office of Lieutenant Governor.

#### SENATE RESOLUTION 567

Senator Blake offered the following resolution:

WHEREAS, The Senate of the State of Texas wishes to recognize Marie E. Black, a longtime citizen of Austin, Texas, who is retiring on May 31, 1987, after

17 years, three months, and 16 days of faithful service as Ladies Lounge Attendant for the Senate at the State Capitol; and

WHEREAS, Her infectious high spirits and warm personality have earned her the admiration and friendship of all who have known her; and

WHEREAS, The warmth, helpfulness, and cheerfulness she displays in her contacts with her fellow human beings have made her a particular favorite; and

WHEREAS, A devoted mother, her loving and attentive family are among her chief pleasures; although she has one daughter, Miriam Patrick, and two grandchildren, Chris and Shannon, "Morma Ree" has several surrogate daughters who come to her with their problems; and

WHEREAS, Other pleasures that this outstanding woman treasures are her cat, Bridget, and her flowers; clever and articulate, she has a talent for writing poetry and gives many friends happiness by writing a poem for them; and

WHEREAS, A day without seeing the twinkle in her eye and hearing the lilt in her voice is like a day without sunshine; and

WHEREAS, A deeply committed Christian, she lives her faith every day of her life; her wise counsel and good judgment will be sorely missed; and

WHEREAS, The multifarious talents of Marie Black, her dedication to her work, and the fun she brings wherever she goes are embedded in the hearts and minds of all who know her; and

WHEREAS, It is appropriate that the Texas Senate honor Mrs. Black on the momentous occasion of her retirement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby commend and applaud Marie E. Black for serving the people of Texas with distinction for more than 17 years; and, be it further

RESOLVED, That the Texas Senate express sincere appreciation to Marie E. Black for her many years of loyal service; and, be it further

RESOLVED, That a copy of this resolution be prepared for her as an expression of highest esteem from the Texas Senate.

The resolution was read.

On motion of Senator Krier and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was adopted viva voce vote.

#### GUEST PRESENTED

The President presented an enrolled copy of S.R. 567 to Mrs. Black.

#### SENATE RESOLUTION 569

Senator Blake offered the following resolution:

WHEREAS, The Senate of the State of Texas will sorely miss Myrtle Guinn who retired September 29, 1986, after 18 years of outstanding service; and

WHEREAS, Hard working and devoted to duty, she served with great distinction as Proofreading Supervisor of the Engrossing and Enrolling Room; and

WHEREAS, A valued and esteemed employee, she worked many long, hard hours without complaint, determined to do the best job possible; and

WHEREAS, Little known outside her department, she merited praise for her excellent handling of her multiple duties; whether locating a proofreader missing in action or logging her 1,000th committee printing of the day, Myrtle never lost her cheerfulness and sense of the ridiculous; and

WHEREAS, Superb cook and baker, her offerings at E & E luncheons were always eagerly anticipated and quickly devoured; and

WHEREAS, Warm hearted and tender, she discharged her duties in a most exemplary manner; her patience and cool demeanor in the hectic waning days of a legislative session were much appreciated; and

WHEREAS, Her laughter and compassion are cherished memories in the hearts of all those who knew her and worked with her; and

WHEREAS, Sociable and outgoing, her busy weekend schedule was the envy of her younger colleagues; and

WHEREAS, A devoted wife to her husband, Woods, and loving mother to her daughters, Janice and Connie, she delighted in the accomplishments of her seven grandchildren; and

WHEREAS, It is with great regret that the Texas Senate bids farewell to Myrtle Guinn with the admonition that she never forget her many Capitol friends; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby commend Myrtle Guinn for her 18 years of exemplary and dedicated service to her state; and, be it further

RESOLVED, That a copy of this resolution be prepared for her as an expression of highest esteem from the Texas Senate.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Blake, the resolution was adopted viva voce vote.

#### GUEST PRESENTED

The President presented an enrolled copy of S.R. 569 to Mrs. Guinn.

#### SENATE RESOLUTION 566

Senator Blake offered the following resolution:

WHEREAS, The Senate of the State of Texas wishes to recognize Roscoe Henderson, who is retiring after almost 25 years of outstanding public service on May 31, 1987; and

WHEREAS, Beginning his service to the people of Texas on April 3, 1950, Mr. Henderson began his illustrious career working for the State Board of Insurance; after almost six years, he left state employment until December 1, 1968, when he began to work for the Texas Senate, where he is presently employed; and

WHEREAS, The warmth, helpfulness, and generosity of spirit he has displayed in his contacts with his fellow Senate employees have made him a particular favorite with all those fortunate enough to know him; and

WHEREAS, His diligence and hard work in the performance of his duties have earned him the respect and admiration of his co-workers, as well as those for whom he has worked; and

WHEREAS, A devoted family man, he has been strengthened throughout the years by the love and support of his wife, Bennie; and

WHEREAS, During the years he has served the Senate with dedication and honor, he has established a permanent place for himself in the hearts of those who lived and worked with him; and

WHEREAS, It is appropriate that the Texas Senate honor Roscoe Henderson on the momentous occasion of his retirement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby commend and applaud Roscoe Henderson for his years of loyal and faithful service to the people of Texas; and, be it further

RESOLVED, That a copy of this resolution be prepared for him as an expression of sincere appreciation and friendship from the Texas Senate with best wishes for many happy retirement years.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Blake, the resolution was adopted viva voce vote.

#### GUEST PRESENTED

The President presented an enrolled copy of S.R. 566 to Mr. Henderson.

#### SENATE RESOLUTION 568

Senator Blake offered the following resolution:

WHEREAS, Fellow Senate employees will sorely miss Billie Leach, Chief of Purchasing and Supply Services, who will retire on May 31, 1987, after more than 25 years of distinguished service with the State of Texas; and

WHEREAS, Beginning her illustrious public service career with the Railroad Commission on July 31, 1946, she also worked for the Supreme Court before joining the Senate Purchasing and Supply Department as a Purchaser I; and

WHEREAS, Her talent and ability were soon recognized and she was promoted to Chief of Purchasing and Supplies on September 1, 1980; and

WHEREAS, Noted for her sweet smile and gentle demeanor, Mrs. Leach has earned the respect and friendship of all who know her; and

WHEREAS, At all times the epitome of a lady, her graciousness helped brighten the day for all Senate employees; and

WHEREAS, Respected for her hard work and devotion to duty, she is an exemplary employee; and

WHEREAS, Her ability to inspire the loyalty and confidence of all around her enabled her to make an outstanding contribution to the smooth efficiency of Senate operations; and

WHEREAS, A devoted wife to Robert E. Leach, she is proud of the accomplishments of her lovely daughters, Charlotte Safi, Carol O'Brien, and Laurie Griffin who have gifted her with grandchildren Robert, Bryan, and Caroline Safi; Jay and Preston O'Brien; and Courtney and Chandler Griffin; and

WHEREAS, Although her many Senate friends regret the loss of her cheerful presence, one and all wish her a happy and fulfilling retirement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby express sincere appreciation to Mrs. Billie Leach for her years of loyal service to the State of Texas; and, be it further

RESOLVED, That a copy of this resolution be prepared for her as an expression of deepest friendship, affection, and admiration from the Texas Senate.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Blake, the resolution was adopted viva voce vote.

#### GUEST PRESENTED

The President presented an enrolled copy of S.R. 568 to Mrs. Leach.



**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 101  
S.C.R. 121  
S.B. 190  
S.B. 349  
S.B. 370  
S.B. 478  
S.B. 617  
S.B. 748  
S.B. 789  
S.B. 1142

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas  
May 19, 1987

TO THE SENATE OF THE SEVENTIETH LEGISLATURE,  
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE A MEMBER OF THE BOARD OF REGENTS OF TEXAS TECH  
UNIVERSITY:

For a term to expire January 31, 1993:

CLAUDE CAREY HOBBS  
21 Carriage Square  
Waco, Texas 76708

Mr. Hobbs will be replacing Jean McLaughlin Kahle of Fort Worth whose term expired.

Respectfully submitted,  
/s/W. P. Clements, Jr.  
William P. Clements, Jr.  
Governor of Texas

**SENATE RESOLUTIONS ON FIRST READING**

On motion of Senator Farabee and by unanimous consent, the following resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 124 by Truan Administration  
Establishing the Interim Study Committee on the Regulation of Wastes with Radioactive Components.

S.C.R. 129 by Farabee Administration  
Establishing a special interim study committee to be named the Joint Special Committee on Workers' Compensation Insurance.

S.C.R. 130 by Zaffirini, Brooks Education  
Directing the State Board of Education and the Texas Commission on Alcohol and Drug Abuse to study the problem of substance abuse by public school students.

**S.R. 571** by Sarpalius Administration  
Establishing a special interim study committee to be named the Senate Select Committee on High-Level Nuclear Waste.

**S.R. 572** by Sarpalius Administration  
Establishing a special interim study committee to be named the Senate Select Committee on the Juvenile Justice System.

#### HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

**H.C.R. 165**, To Committee on Administration.  
**H.C.R. 183**, To Committee on Natural Resources.  
**H.J.R. 46**, To Committee on Finance.  
**H.B. 83**, To Committee on Criminal Justice.  
**H.B. 273**, To Committee on State Affairs.  
**H.B. 530**, To Committee on Intergovernmental Relations.  
**H.B. 550**, To Committee on Health and Human Services.  
**H.B. 574**, To Committee on Criminal Justice.  
**H.B. 612**, To Committee on State Affairs.  
**H.B. 614**, To Committee on Jurisprudence.  
**H.B. 629**, To Committee on Education.  
**H.B. 647**, To Committee on State Affairs.  
**H.B. 717**, To Committee on Criminal Justice.  
**H.B. 874**, To Committee on Intergovernmental Relations.  
**H.B. 913**, To Committee on Criminal Justice.  
**H.B. 1038**, To Committee on State Affairs.  
**H.B. 1069**, To Committee on State Affairs.  
**H.B. 1076**, To Committee on Criminal Justice.  
**H.B. 1150**, To Committee on Jurisprudence.  
**H.B. 1217**, To Committee on Education.  
**H.B. 1226**, To Committee on Finance.  
**H.B. 1269**, To Committee on Education.  
**H.B. 1299**, To Committee on Criminal Justice.  
**H.B. 1300**, To Committee on Criminal Justice.  
**H.B. 1303**, To Committee on Economic Development.  
**H.B. 1432**, To Committee on Natural Resources.  
**H.B. 1488**, To Committee on Finance.  
**H.B. 1514**, To Committee on Intergovernmental Relations.  
**H.B. 1561**, To Committee on Education.  
**H.B. 1596**, To Committee on State Affairs.  
**H.B. 1608**, To Committee on State Affairs.  
**H.B. 1615**, To Committee on Finance.  
**H.B. 1616**, To Committee on Economic Development.  
**H.B. 1622**, To Committee on Criminal Justice.  
**H.B. 1647**, To Committee on Natural Resources.  
**H.B. 1688**, To Committee on Intergovernmental Relations.  
**H.B. 1709**, To Committee on Natural Resources.  
**H.B. 1710**, To Committee on Natural Resources.  
**H.B. 1762**, To Committee on Jurisprudence.  
**H.B. 1818**, To Committee on Education.

**H.B. 1837**, To Committee on State Affairs.

**H.B. 1851**, To Committee on State Affairs.

**H.B. 1852**, To Committee on State Affairs.

#### **SENATE RULE 103 SUSPENDED**

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Health and Human Services might consider **H.B. 1154** at 2:00 p.m. today.

#### **CO-AUTHOR OF SENATE BILL 425**

On motion of Senator Uribe and by unanimous consent, Senator Anderson will be shown as Co-author of **S.B. 425**.

#### **SENATE RULE 74a SUSPENDED**

On motion of Senator Johnson and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to **S.B. 481**.

#### **SENATE BILL 481 WITH HOUSE AMENDMENTS**

Senator Johnson called **S.B. 481** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Committee Amendment - Blair**

Amend **S.B. 481** as follows:

On page 2, line 6, after the word "with," strike "10" and substitute "2".

#### **Floor Amendment No. 1 - Blair**

Amend **S.B. 481** by striking Section 1 of the bill and substituting a new Section 1 to read as follows:

**SECTION 1.** Article 1175, Revised Statutes, is amended by adding Subdivision 37 to read as follows:

37. (a) This subdivision applies only to a home-rule city that has a population of 700,000 or more, according to the most recent federal census, and has adopted an ordinance under Subdivision 36 of this article.

(b) In addition to the authority granted under Subdivision 36 of this article, after the expiration of the time allotted under Subdivision 36 of this article for the repair or removal of a building the city may:

(i) repair the building at the expense of the city and assess the expenses on the land on which the building stands or to which it is attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the repair expenses; or

(ii) assess a civil penalty against the property owner for failure to repair or remove the building and provide for that assessment, the mode and manner of giving notice, and the means of recovering the assessment.

(c) The city may repair a building under Paragraph (b) of this subdivision only to the extent necessary to bring the building into compliance with the minimum standards and only if the building is a residential building with one or two dwelling units. The repairs may not improve the building to the extent that the building exceeds minimum housing standards.

(d) The city may impose a lien against the land on which the building stands or stood to secure the payment of the repair or removal expenses or the civil penalty.

(e) The city's lien to secure the payment of a civil penalty or the costs of repairs or removal is inferior to any previously recorded bona fide mortgage lien.

attached to the real property to which the city's lien attaches if the mortgage lien was filed for record in the office of the county clerk of the county in which the real property is located before the date the civil penalty is assessed or the repair or removal is begun by the city. The city's lien is superior to all other previously recorded judgment liens.

(f) Any civil penalty or other assessment imposed under this subdivision accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full.

(g) The city's right to the assessment lien may not be transferred to third parties.

(h) In any judicial proceeding regarding enforcement of city rights under this subdivision, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

#### **Floor Amendment No. 2 - Russell**

Amend S.B. 481 as follows:

(1) Add a new Section 3 to read as follows:

Sec. 3. A lien acquired hereunder by any city or town, including a home-rule city, for repair expenses incurred by such city or town may not be foreclosed if the property upon which such repairs were effected is the residential homestead of a person 65 years of age or older and is being occupied as such by such person.

(2) Renumber Section 3 as Section 4.

#### **Floor Amendment No. 3 - Russell**

Amend S.B. 481 on third reading by adding two sections, to be numbered appropriately, to read as follows:

SECTION \_\_\_\_ Section 1, Chapter 566, Acts of the 65th Legislature, Regular Session, 1977 (Article 1015n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) Any incorporated [A] city or town, other than a home-rule city, [incorporated or operating under Chapters 1-10, Title 28, Revised Civil Statutes of Texas, 1925, as amended,] may adopt an ordinance that requires the removal, demolition, or repair of a building that is dilapidated, substandard, or unfit for human habitation[;] or is a hazard to the health, safety, and welfare of the citizens.

(b) The ordinance must:

(1) establish minimum standards for continued use and occupancy that apply to all buildings regardless of date of construction;

(2) provide for proper notice to the owner; and

(3) provide for a public hearing.

(c) Before the 40th day before the date of the hearing regarding a building, the city or town must send the owner a notice of the hearing. The notice must include in boldfaced type:

(1) a statement that the owner is required, before the 30th day before the date of the hearing, to file with the city or town a written statement of the name and address of each mortgagee, lienholder, or other person having an interest in the property; and

(2) a statement that if the owner fails to timely file the statement the city or town will not be liable to the persons having interests in the property, if those interests are not recorded in the county in which the property is located, for the destruction of those interests because of the removal or destruction of the building under the city ordinance.

(d) The city or town shall identify, from the records recorded in the office of the county clerk of the county in which the property is located, each mortgagee,

lienholder, and other person who, according to those records, has an interest in the property.

(e) The city or town must send a notice to each person identified in the owner's statement filed under Subsection (c) of this section, if the statement is timely filed, and to each person identified by the city or town under Subsection (d) of this section. The notice must be sent before the 14th day before the date of the hearing and must include in boldfaced type a statement that the city or town will not be liable to the person for the destruction of the person's interest in the property because of the removal or destruction of the building under the ordinance if before the hearing the person does not take action reasonably designed to remedy the dilapidated, substandard, uninhabitable, or hazardous condition of the building.

(f) After the [a] hearing, if the building is found to be in violation of the standards set out in the ordinance, the city or town may direct that the building be repaired, [or] removed, or demolished within a reasonable time.

(g) [(d)] After the expiration of the allotted time, the city or town may remove or demolish the building at its own expense. After the completion of the removal or demolition, the city or town must give proper notice to the owner that the owner has 30 days in which to reimburse the city or town for the removal or demolition expenses incurred by the city or town. If the owner fails to reimburse the city or town within the permitted time, on filing with the county clerk of the county in which the city or town is situated a statement by the mayor or health officer of the city or town of the expenses incurred and a legal description of the property affected, the city or town has a privileged lien on the property. The lien is second only to tax liens and liens for street improvements, except that for the purpose of determining the status of liens under a title insurance policy delivered or issued for delivery in this state, the lien shall be considered to be inferior to the mortgagee's lien or similar kinds of liens insured by the title insurance company. The lien secures the payment of the removal or demolition expenses and 10 percent interest a year on that amount from the date the 30-day period expires. The city or town may enforce the lien by instituting a suit in the name of the city or town to foreclose the lien. In the suit, the statement filed with the county clerk, or a certified copy of it, is prima facie proof of the amount expended in the removal or demolition. [If a city incurs removal expenses under this Act, it has a lien against the property to which the building was attached. The lien is extinguished if the property owner reimburses the city for the removal expenses. The lien may not be enforced by forced sale.]

SECTION \_\_\_\_ Subdivision 36, Article 1175, Revised Statutes, is amended to read as follows:

36. (a) A home-rule city may adopt an ordinance which requires the removal, demolition, or repair of a building that is [buildings which are] dilapidated, substandard, or unfit for human habitation and is [which constitute] a hazard to the health, safety, and welfare of the citizens.

(b) The ordinance must:

(1) establish minimum standards for continued use and occupancy that [of structures, and these standards shall] apply to all buildings regardless of date of construction;

(2) [when they were constructed. The ordinance must] provide for proper notice to the owner; and

(3) provide for a public hearing.

(c) Before the 40th day before the date of the hearing regarding a building, the city must send the owner a notice of the hearing. The notice must include in boldfaced type:

(1) a statement that the owner is required, before the 30th day before the date of the hearing, to file with the city a written statement of the name and address of each mortgagee, lienholder, or other person having an interest in the property; and

(2) a statement that if the owner fails to timely file the statement the city will not be liable to the persons having interests in the property, if those interests are not recorded in the county in which the property is located, for the destruction of those interests because of the removal or destruction of the building under the city ordinance.

(d) The city shall identify, from the records recorded in the office of the county clerk of the county in which the property is located, each mortgagee, lienholder, and other person who, according to those records, has an interest in the property.

(e) The city must send a notice to each person identified in the owner's statement filed under Paragraph (c) of this subdivision, if the statement is timely filed, and to each person identified by the city under Paragraph (d) of this subdivision. The notice must be sent before the 14th day before the date of the hearing and must include in boldfaced type a statement that the city will not be liable to the person for the destruction of the person's interest in the property because of the removal or destruction of the building under the ordinance if before the hearing the person does not take action reasonably designed to remedy the dilapidated, substandard, or uninhabitable condition and the hazardous condition of the building.

(f) After the hearing, if the building is found to be in violation of the standards set out in the ordinance [substandard], the city may direct that the building be repaired, [or] removed, or demolished within a reasonable time. If the owner does not take the required action within [After the expiration of] the allotted time, the city has the power to remove or demolish the building at the expense of the city and assess the expenses on the land on which the building stood or to which it was attached and may provide for that assessment, the mode and manner of giving notice, and the means of recovering the removal or demolition expenses.

(g) After the completion of the removal or demolition, the city must give proper notice to the owner that the owner has 30 days in which to reimburse the city for the expenses incurred by the city. If the owner fails to reimburse the city for the expenses within the permitted time, on filing with the county clerk of the county in which the city is situated a statement by the mayor or health officer of the city of the expenses incurred and a legal description of the property affected, the city has a lien on the property. To the extent that Subdivision 37 of this article provides for a lien for removal expenses for certain cities, that subdivision supersedes the lien provisions prescribed by this subdivision.

(h) A lien for the payment of removal or demolition expenses is a privileged lien second only to tax liens and liens for street improvements, except that for the purpose of determining the status of liens under a title insurance policy delivered or issued for delivery in this state, the lien shall be considered to be inferior to the mortgagee's lien or similar kinds of liens insured by the title insurance company.

(i) The lien secures the payment of the expenses and 10 percent interest a year on that amount from the date the 30-day period prescribed by Paragraph (g) of this subdivision expires.

(j) The city may enforce the lien by instituting a suit in the name of the city to foreclose the lien, and the city may not transfer the lien to a third party. In the suit, the statement filed under Paragraph (g) of this subdivision with the county clerk, or a certified copy of it, is prima facie proof of the amount expended in the removal or demolition.

The amendments were read.

Senator Johnson moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 481** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Johnson, Chairman; Parmer, Barrientos, Harris and Parker.

#### CONFERENCE COMMITTEE ON HOUSE BILL 81

Senator Farabee called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 81** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 81** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Farabee, Chairman; Edwards, Uribe, Jones and Brooks.

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 95 ADOPTED

Senator Blake called from the President's table the Conference Committee Report on **S.B. 95**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 15, 1987.)

On motion of Senator Blake, the Conference Committee Report was adopted viva voce vote.

#### SENATE RULE 74a SUSPENDED

On motion of Senator Armbrister and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendments to **S.B. 1125**.

#### SENATE BILL 1125 WITH HOUSE AMENDMENTS

Senator Armbrister called **S.B. 1125** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.  
**Committee Amendment No. 1 - Hury**

Amend **S.B. 1125** on page 1 by striking lines 14-16 and substituting the following:

"the district court in:

- (1) eminent domain cases; ~~and in~~
- (2) civil cases when the matter in controversy exceeds \$500 and does not exceed \$50,000 ~~(\$5,000)~~, exclusive of interest;
- (3) appeals of final rulings and decisions of the Industrial Accident Board; and
- (4) cases and proceedings involving adoptions, birth records, or removal of disability of minority or coverture; change of names of persons; child welfare, custody, support and reciprocal support, dependency, neglect, or delinquency; paternity; termination of parental rights; divorce and marriage annulment.

including the adjustment of property rights, custody and support of minor children involved therein, temporary support pending final hearing, and every other matter incident to divorce or annulment proceedings; independent actions involving child support, custody of minors, and wife or child desertion; and independent actions involving controversies between parent and child, between parents, and between spouses.”.

**Floor Amendment - Hammond**

Amend Committee Amendment No. 1 to S.B. 1125 on page 5, line 9 of the committee report, after “Board” and before the semicolon, by inserting the following:

“, regardless of the amount in controversy”.

The amendments were read.

Senator Armbrister moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 1125 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Armbrister, Chairman; Farabee, Brown, McFarland and Anderson.

**SENATE JOINT RESOLUTION 34 ON SECOND READING**

Senator Montford moved to suspend the regular order of business to take up for consideration at this time:

**S.J.R. 34**, Proposing a constitutional amendment giving the state a limited right to appeal in criminal cases.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parmer, Sarpalius, Sims, Tejada, Uribe, Whitmire, Zaffirini.

Nays: Johnson, Parker, Santiesteban, Washington.

Absent-excused: Truan.

The resolution was read second time.

Senator Washington offered the following amendment to the resolution:

Amend S.J.R. 34 by striking Section 1 and substituting the following:

SECTION 1. Article V, Section 26, of the Texas Constitution is amended to read as follows:

Sec. 26. The State shall have no right of appeal in criminal cases, except as provided by this section. In addition to the rights of appeal provided to an accused by law and subject to the guarantees of the Bill of Rights of this constitution, both the State and the accused shall have the right, in a criminal case, to appeal as provided by law, from a pretrial ruling of the trial court as to the constitutionality



of a particular statute or from a pretrial ruling of the trial court on a motion to quash, dismiss, or set aside an indictment or a motion to suppress evidence.

The amendment was read.

On motion of Senator Montford, the amendment was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Anderson, Armbrister, Blake, Brown, Edwards, Farabee, Green, Harris, Henderson, Jones, Krier, Leedom, McFarland, Montford, Sarpalius, Sims, Tejeda, Whitmire, Zaffirini.

Nays: Barrientos, Brooks, Caperton, Glasgow, Johnson, Lyon, Parker, Parmer, Santiesteban, Uribe, Washington.

Absent-excused: Truan.

The resolution was passed to engrossment viva voce vote.

#### RECORD OF VOTE

Senator Washington asked to be recorded as voting "Nay" on the passage of the resolution to engrossment.

#### SENATE JOINT RESOLUTION 34 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.J.R. 34 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parmer, Sarpalius, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Johnson, Parker, Santiesteban, Washington.

Absent-excused: Truan.

The resolution was read third time and was passed by the following vote: Yeas 26, Nays 4. (Same as previous roll call)

#### SENATE BILL 762 ON SECOND READING

Senator Montford moved to suspend the regular order of business to take up for consideration at this time:

**S.B. 762**, Relating to the right of the state to appeal in certain criminal cases.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Johnson, Santiesteban, Washington.

Absent-excused: Truan.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend S.B. 762 by adding a new Subsection (g) as follows:

(g) If the State appeals pursuant to this Article and the defendant is on bail, he shall be permitted to remain at large on the existing bail. If the defendant is in custody, he is entitled to reasonable bail, as provided by law, unless the appeal is from an order which would terminate the prosecution, in which event the defendant is entitled to release on personal bond.

The amendment was read and was adopted viva voce vote.

Senator Washington offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend S.B. 762, Section 1, by adding a new subsection as follows:

(J) Nothing in this article is to interfere with the defendant's right to appeal under the procedures of Article 44.02 of this code. The defendant's right to appeal under ARTICLE 44.02 may be prosecuted by the defendant where the punishment assessed is in accordance with Section 3d(a), Article 42.12 of this Code, as well as any other punishment assessed in compliance with ARTICLE 44.02 of this code.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**RECORD OF VOTES**

Senators Washington and Santiesteban asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 762 ON THIRD READING**

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 762 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Anderson, Armbrister, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Sarpalius, Sims, Tejeda, Uribe, Whitmire, Zaffirini.

Nays: Johnson, Santiesteban, Washington.

Absent-excused: Truan.

The bill was read third time and was passed viva voce vote.

**RECORD OF VOTES**

Senators Washington and Santiesteban asked to be recorded as voting "Nay" on the final passage of the bill.

**SENATE RULE 103 SUSPENDED**

On motion of Senator Parker and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Education might consider the following resolutions at 8:30 a.m. tomorrow:

**S.C.R. 114**

**S.C.R. 130**

**MEMORIAL RESOLUTIONS**

**S.R. 538** - By Farabee, Montford: Memorial resolution for the Honorable George Mahon, former member of the United States Congress.

**S.R. 575** - By Brooks: Memorial resolution for Jesse Carmona.

**WELCOME AND CONGRATULATORY RESOLUTIONS**

**H.C.R. 214** - (Brown): Honoring Dr. William Harwood Hinton.

**S.C.R. 125** - By Armbrister: Commending Faith Bybee.

**S.C.R. 126** - By Zaffirini: Recognizing the Trees of Life Project to honor Vietnam war heroes.

**S.C.R. 128** - By Jones: Extending congratulations to Felix and Martha Jay Winn McDonald.

**S.R. 574** - By Leedom: Commending Gordon A. Rose.

**S.R. 577** - By Glasgow: Extending welcome to the eighth grade students from Nolan High School, Fort Worth.

**S.R. 578** - By Glasgow: Extending welcome to Sister Paul O'Reilly.

**ADJOURNMENT**

On motion of Senator Brooks, the Senate at 12:27 p.m. adjourned until 10:30 a.m. tomorrow.

**APPENDIX**

Sent to Governor  
(May 19, 1987)

**S.C.R. 101**

**S.C.R. 121**

**S.B. 190**

**S.B. 349**

**S.B. 370**

**S.B. 478**

**S.B. 617**

**S.B. 748**

**S.B. 789**

**S.B. 1142**

Signed by Governor  
(May 18, 1987)

**S.B. 267** (Effective September 1, 1987)

**S.B. 213** (Effective August 31, 1987)

**H.B. 1732** (Effective immediately)

**H.B. 597** (Effective immediately)

**H.B. 526** (Effective January 1, 1988)

**H.B. 850** (Effective August 31, 1987)

**S.C.R. 118**

**S.C.R. 23**

**S.C.R. 57**

Filed Without Signature of Governor  
(May 19, 1987)

**S.C.R. 121**

In Memory  
of  
The Honorable Leon Douglas

Senator Farabee offered the following resolution:

(Senate Resolution 573)

WHEREAS, With the death of the Honorable Leon Douglas on November 27, 1986, the State of Texas lost an illustrious public servant and preeminent jurist who exemplified honor, integrity, and compassion throughout his distinguished career; and

WHEREAS, A native Texan, Judge Douglas was born in Chillicothe on February 29, 1916; a 1934 graduate of Chillicothe High School, he attended The University of Texas before receiving his law degree in 1941; and

WHEREAS, Imbued with a deeply ingrained love of country, he gallantly and courageously served with the United States Navy during World War II; and

WHEREAS, After briefly practicing law with the firm of Warlick, Bunnenberg & Douglas and the firm of Douglas & Hightower, his outstanding public service career that would span more than three decades began as a Vernon city judge; elected district attorney of the 46th District in 1951, he loyally and capably represented the interests of the citizens of Foard, Hardeman, and Wilbarger counties; and

WHEREAS, Appointed State Prosecuting Attorney before the Texas Court of Criminal Appeals in 1955, he ably represented the State of Texas in thousands of cases on appeal before that court, and in cases in the federal courts, including the United States Supreme Court; and

WHEREAS, Elected to the Texas Court of Criminal Appeals in 1968, he firmly upheld the principles of the American judicial system; possessing a broad and thorough knowledge of the criminal law, his decisions reflected a regard for the rights of both the State and the accused to receive a fair trial; and

WHEREAS, Appointed special assistant to Attorney General Mark White in 1980 and later named special assistant in the Governor's criminal justice division, Judge Douglas conscientiously discharged his duties in an exemplary manner; and

WHEREAS, Dedicated to his profession and determined to uphold its high standards, he donated his time and talents to the State Bar Association; former Vice-Chairman of the Criminal Law Section, his wisdom and expertise also benefitted the Judicial Section and the Appellate Judges Section; and

WHEREAS, Recipient of the 17th Annual Rosewood Gavel Award from St. Mary's University School of Law for his exceptional contributions to the legal system of Texas, he was also named an Honorary Life member of the Texas District and County Attorneys Association; and

WHEREAS, A sincere and dedicated Christian layman, he lived his Christian beliefs every day of his life in thought, word, and action; he was an active member of University United Methodist Church and the Hickman Men's Fellowship Class; and

WHEREAS, A devoted husband, father, and grandfather, he leaves behind a cherished legacy of love and commitment to his fellowman; and

WHEREAS, The life of service of this distinguished jurist and legal scholar will remain forever cherished in the annals of Texas history; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 70th Legislature, hereby honor the memory of Judge Leon Douglas and extend heartfelt condolences to the members of his family on their profound loss: his wife, Marybelle Grace Douglas; his daughter, Nancy Moore; his son, David M. Douglas; his sister, Marie Bell; his brothers, J. L. Oswalt and R. E. Douglas; and his grandchildren, Amy Moore, Claire Moore, Daniel Moore, Marian Moore, Lesley Douglas, Allison Douglas, and Michael Douglas; and, be it further

RESOLVED, That copies of this resolution be prepared for the members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of the Honorable Leon Douglas.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Farabee and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.